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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,570	02/05/2004	Theodor Kolobow	015280-502000US	3553

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

PATEL, MITAL B

ART UNIT PAPER NUMBER

3743

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,570

Applicant(s)

KOLOBOW ET AL.

Examiner

Mital B. Patel

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 9-13 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 4, 6, 8, 14 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/5/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Drawings

2. The drawings are objected to because in Figure 4, reference character 80 is used to represent two different structural elements. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

Art Unit: 3743

the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet **within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.** The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1, 2, 3, 5, 7, 8, 9, 10-13, and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Morejon (US 6,494,208).

6. **As to claim 1**, Morejon teaches an endotracheal tube cleaning apparatus comprising; a inflation device **193**; a balloon **40,40'** having a shaving ring **47** with a

Art Unit: 3743

squared edge (**See Fig. 3A**); and, a tube **20** connecting said inflation device and said balloon which is capable of transporting fluid from said inflation device to inflate said balloon.

7. **As to claim 2**, Morejon teaches an endotracheal tube cleaning apparatus wherein said inflation device is a syringe (**See Fig. 5, element 193**).

8. **As to claim 3**, Morejon teaches an endotracheal tube cleaning apparatus wherein said tube and said balloon are formed from an elastomer (**Col. 6, lines 8-10 and Col. 6, lines 52-57**).

9. **As to claim 5**, Morejon teaches an endotracheal tube cleaning apparatus further comprising a plurality of shaving rings having squared edges (**See Fig. 3A**).

10. **As to claim 7**, Morejon teaches an endotracheal tube cleaning apparatus wherein said fluid is air (**See Col. 9, lines 1-6**).

11. **As to claim 9**, Morejon teaches a process for removing mucus accumulations from the inside walls of an endotracheal tube **80** comprising the steps of: selecting a cleaning apparatus capable of shaving said mucus accumulations off the inside walls of said endotracheal tube wherein said apparatus comprises an inflation device **193**, a balloon **40,40'** having a shaving ring **47** with a squared edge, and a tube **20** connecting said inflation device and said balloon; inserting said cleaning apparatus into said endotracheal tube; using said inflation device to inflate the balloon of said cleaning apparatus so that said shaving ring is pressed against the inside wall of said endotracheal tube; pulling said cleaning apparatus out of said endotracheal tube while

Art Unit: 3743

said balloon is still inflated so that said shaving ring shaves said mucus accumulations off of the inside walls of said endotracheal tube (**See Cols. 9-10**).

12. **As to claim 10**, Morejon teaches a process wherein said inflation device is a syringe **193**.

13. **As to claim 11**, Morejon teaches a process wherein said balloon has a plurality of shaving rings with squared edges (**See Fig. 3A**).

14. **As to claim 12**, Morejon teaches a process wherein said balloon is formed from an elastomer (**Col. 6, lines 8-10 and Col. 6, lines 52-57**).

15. **As to claim 13**, Morejon teaches a process wherein said endotracheal tube and said cleaning apparatus have x-ray detectable markers **62** which are used for alignment.

16. **As to claim 15**, Morejon teaches a process for removing mucus accumulations from the inside walls of an endotracheal tube comprising the steps of: selecting an endotracheal tube **80** having a bactericidal film on its inside wall (**See Col. 8, lines 50-54**); selecting a cleaning apparatus capable of shaving said mucus accumulations off the inside walls of said endotracheal tube without significantly damaging said bactericidal film wherein said apparatus comprises an inflation device **193**, a balloon **40,40'** having a shaving ring **47** with a squared edge, and a tube **20** connecting said inflation device and said balloon; inserting said cleaning apparatus into said endotracheal tube; using said inflation device to inflate the balloon of said cleaning apparatus so that said shaving ring is pressed against the inside wall of said endotracheal tube; pulling said cleaning apparatus out of said endotracheal tube while

Art Unit: 3743

said balloon is still inflated so that said shaving ring shaves said mucus accumulations off of the inside walls of said endotracheal tube without significantly damaging said bactericidal film (**See Cols. 9-10**).

17. **As to claim 16**, Morejon teaches a process wherein said inflation device is a syringe **193**.

18. **As to claim 17**, Morejon teaches a process wherein said balloon has a plurality of shaving rings with squared edges (**See Fig. 3A**).

19. **As to claim 18**, Morejon teaches a process wherein said balloon is formed from an elastomer (**Col. 6, lines 8-10 and Col. 6, lines 52-57**).

Allowable Subject Matter

20. Claims 4, 6, 8, 14; and 19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

21. The following is a statement of reasons for the indication of allowable subject matter: As to claims 4, 8, 14, and 19, the prior art of record does not teach nor render obvious the overall claimed combination of an endotracheal tube cleaning apparatus and a process for removing mucus accumulations, wherein the apparatus has a balloon formed as a gap in an elastomeric tube between two plugs, wherein one of the plugs has a hole in it to allow inflating fluid to enter the balloon; and wherein the process has a cleaning apparatus having a balloon with two plugs adjacent to the balloon.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5819723, US 4762125, US 5030213, US 5003657, and US 4021265.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mital B. Patel whose telephone number is 571-272-4802. The examiner can normally be reached on Monday-Friday (11:00-7:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 2/6/05
Mital B. Patel
Examiner
Art Unit 3743